FEB 17 1899
JAMES H. MCKENNEY,
Clerk

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. 1898. 942. 30.

EMILIE SAXLEHNER,
Petitioner,

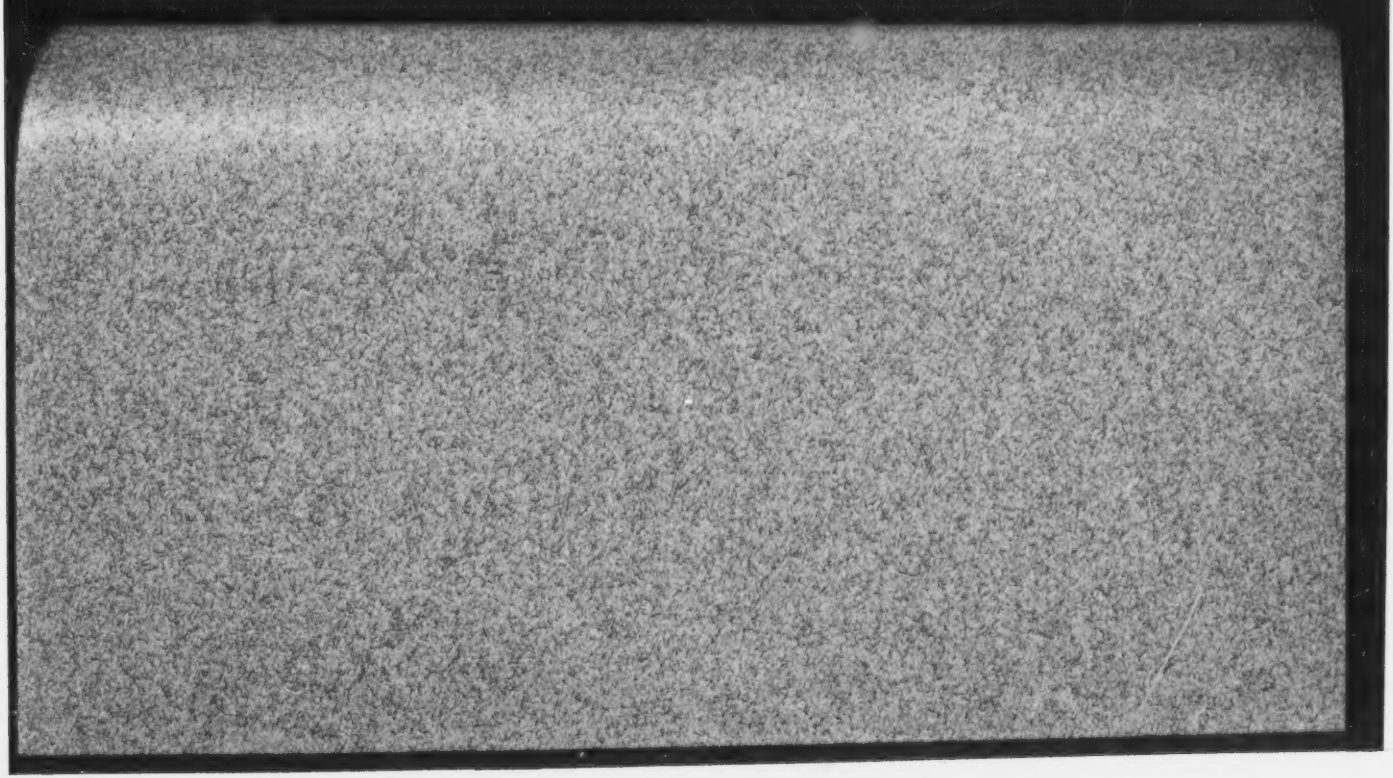
vs.

SIEGEL-COOPER COMPANY.

Notice of Motion, Motion and Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

JOSEPH H. CHOATE,
ARTHUR v. BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

The Evening Post Job Printing House, New York.



Supreme Court of the United States. 1

EMILIE SAXLEHNER,
Petitioner,

vs.

SIEGEL-COOPER CO.

October Term, 1898.

No.

Notice of Motion.

To SIEGEL-COOPER CO., the above named defendant: 2

Please take notice, that on Monday, February 20th, 1899, at the opening of the Court on that day, or as soon thereafter as counsel can be heard, a motion for a writ of *certiorari*, of which motion a copy is annexed, will be submitted to the Supreme Court of the United States, at the City of Washington, D. C., for the decision of the Court thereon.

In support of said motion a petition and a brief will also be presented to the Court. A copy of the petition and of the brief are herewith served upon you.

Respectfully,

JOSEPH H. CHOATE, 3
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

New York, February 6, 1899.

Due service of the foregoing notice of motion in the above cause is hereby admitted this 11th day of February 1899.

Siegel Cooper Co.
Defendant.
by Charles G. Gore
Edmund Wetmore
its Attorneys & Counsel

4 SUPREME COURT OF THE UNITED STATES.

EMILIE SAXLEHNER, Petitioner,	October Term, 1898.
vs.	
SIEGEL-COOPER CO.	No.

Motion.

And now comes Emilie Saxlehner, the above
5 named petitioner, by Joseph H. Choate, Arthur v. Briesen and Antonio Knauth, her attorneys and counsel, and moves this Honorable Court for a writ of *certiorari* directed to the Honorable the Judges of the United States Circuit Court of Appeals within and for the Second Judicial Circuit, commanding them forthwith to certify and return to this Court all proceedings by them had in the suit lately before them, wherein this petitioner was appellant and said Siegel-Cooper Co. was appellee.

The matter involved herein relates to the question of trade-mark rights of the petitioner in and to the name "Hunyadi" and a red and blue label used in connection therewith upon complainant's bitter
6 water called "Hunyadi Janos." Your petitioner's right to said trade-mark and label has been held forfeited by petitioner's laches by the United States Circuit Court of Appeals for the Second Judicial Circuit, which has ordered the petitioner's bill of complaint in the present case to be dismissed.

EMILIE SAXLEHNER,
Petitioner.

By
JOSEPH H. CHOATE,
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Her Attorneys and Counsel.

Due service of the foregoing motion is hereby admitted this 14 day of February 1899. 7

Siegel-Cooper Co
Defendant.
by Charles L. Loy
Edmund Wetmore
Its Attorneys & Counsel

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1898.

No.....

EMILIE SAXLEHNER, Petitioner, *In re* Petition for a Writ of *Certiorari* requiring the Circuit Court of Appeals in and for the Second Circuit to certify to the Supreme Court for review and determination the case of EMILIE SAXLEHNER, Complainant and Appellant, vs. SIEGEL-COOPER COMPANY, Defendant and Appellee. 8 9

TO THE HONORABLE THE SUPREME COURT OF THE UNITED STATES:

The petition of Emilie Saxlehner respectfully shows:

FIRST.—That petitioner is a subject of the King of Hungary and resides at Budapest, in the Kingdom of Hungary, and the defendant, Siegel-Cooper Company, is a corporation incorporated under the laws of the State of New York.

10 SECOND.—That the value of the matter in dispute in the above entitled cause, as appears by the bill of complaint therein, exclusive of interest and costs, exceeds the sum of two thousand dollars, and there is involved in said cause the validity or invalidity of petitioner's trade-mark "Hunyadi" for bitter water, and that of the label used by her, upon which several hundred thousand dollars have been spent for advertising in the course of more than thirty years, and which are of very large value to petitioner in her business.

THIRD.—That this suit was brought to restrain the defendant from infringement upon petitioner's
11 trade-mark rights in the name "Hunyadi," and also from selling bitter waters bearing colorable and fraudulent imitations of the red and blue label used by petitioner in connection with the said name "Hunyadi" on her bitter water called "Hunyadi Janos"; that the evidence in this case was by stipulation taken in one record with the similar case of your petitioner against Eisner & Mendelson Company (that being the principal case), in which a similar petition is simultaneously presented to this Court.

FOURTH.—That the undisputed facts relating to the adoption and use of petitioner's trade-mark and
12 label, and also with reference to the adoption and use of the "Hunyady Matyas" and "Hunyady Laszlo" labels employed by the defendant, are more particularly stated in the petition for writ of *certiorari* in said case against the Eisner & Mendelson Company. That the undisputed proofs in the case also show that the defendant Siegel Cooper Company had sold and was offering for sale Hungarian bitter water under the name of "Hunyady Lajos," bearing a label also made in close and fraudulent resemblance of petitioner's "Hunyadi Janos" label,

and was offering for sale said "Hunyady Matyas" and "Hunyady Lajos" waters as "Hunyadi Water." 13

FIFTH.—That there was no substantial conflict about the facts in the case, which were stated in detail in the opinion of Shipman, Judge, who decided the case at the Circuit Court, but dismissed your petitioner's bill of complaint on the ground that no actual or intended fraud of the defendant had been shown. That your petitioner appealed from the decree of the Circuit Court to the Circuit Court of Appeals of the Second Circuit, which affirmed the decree of the Circuit Court upon the ground that your petitioner's right to her trade-mark "Hunyadi," and to her red and blue label as used by her on the Hungarian bitter water, "Hunyadi Janos," sold by her, had been forfeited by laches. 14

Copies of the opinions of the Circuit Court and Circuit Court of Appeals, as also of your petitioner's labels and of the "Hunyady Matyas" and "Hunyady Laszlo" labels employed by the defendant are attached to the petition in the principal case against the Eisner and Mendelson Company.

SIXTH.—That your petitioner, previous to defendant's infringements, duly registered the name "Hunyadi" as a trade-mark for bitter water in the United States Patent Office, and likewise registered the same with the Chamber of Commerce and Industry of Budapest, and claims to be entitled to the benefit of the statutes of the United States in this regard, and of the treaty between the United States of America and Austro Hungary of June 1, 1872. 15

SEVENTH.—Your petitioner respectfully submits that said decision of the Circuit Court of Appeals is opposed to the law laid down by this Honorable

16 Court in sundry decisions, and is subversive of the rights guaranteed to your petitioner by said treaty and by the statutes of the United States.

EIGHTH.—That if the decision of the Circuit Court of Appeals, denying to your petitioner the relief claimed by her, is to be the law of the land, the health of consumers and the public at large will be seriously endangered, and your petitioner's business in the United States will be practically destroyed.

NINTH.—The opinion of the said Circuit Court of Appeals was rendered on the 5th day of January, 1899, and remanded the cause to the Court below
17 with instructions to dismiss the bill; that the decree of said Circuit Court of Appeals was duly entered, and its mandate has been issued.

TENTH.—And your petitioner further represents that said decree of said Circuit Court of Appeals is final between the parties unless this Honorable Court should of its own motion direct the bringing up for review of said cause.

Wherefore, petitioner respectfully prays that a writ of *certiorari* may be issued out of and under the seal of this Honorable Court directed to the United States Circuit Court of Appeals for the Sec-
18 ond Circuit, commanding the said Court to certify and send to this Honorable Court, on a day certain to be therein designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the said cause therein entitled, "Emilie Saxlehner, Complainant-Appellant, *vs.* Siegel-Cooper Company, Defendant-Appellee, No. 1,025," to the end that the case may be reviewed and determined by this Honorable Court as provided in Section 6 of the Act of Congress entitled, "An Act to Establish Circuit Courts of Appeal and to define and Regulate in Certain Cases the Jurisdiction of the Courts of the United

States, and for Other Purposes," approved March 3, 1891; and that your petitioner may have such other or further relief in the premises as to this Court may seem appropriate and in conformity with said act, and that the said judgment of the said Circuit Court of Appeals for the Second Circuit, in the said cause, and every part thereof may be reversed by this Honorable Court.

And your petitioner will ever pray, &c.,

EMILIE SAXLEHNER,
Petitioner.

By JOSEPH H. CHOATE,
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Her Attorneys and Counsel.

Due service of the foregoing petition is hereby admitted, this 11th day of February A. D. 1899.

Siegel Cooper Co
Defendant.

by Charles G. Cox
Edmund Wetmore
Its Attorneys & Counsel

FEB 17
JAMES H

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. XII 213. 31.

EMILIE SAXLEHNER,
Petitioner,

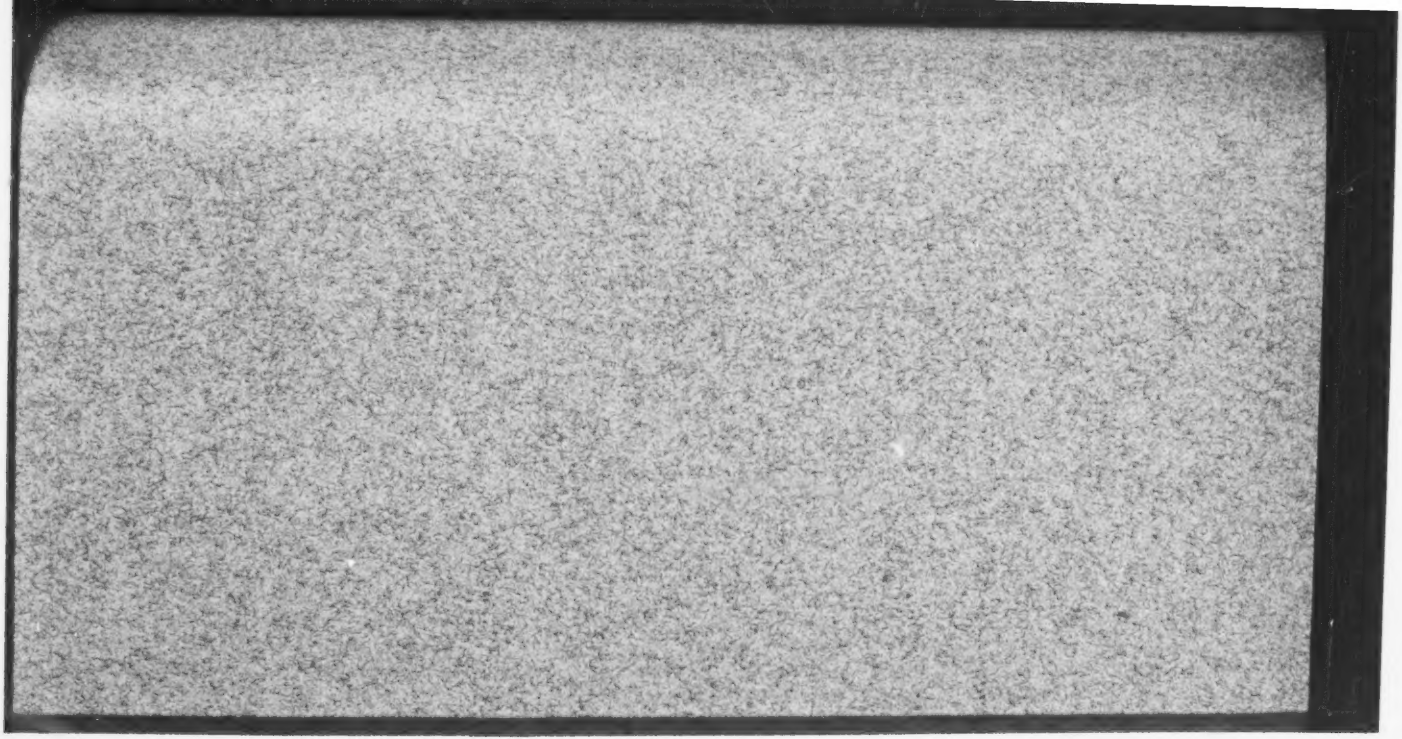
vs.

RUDOLPH GIES.

Notice of Motion, Motion and Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

JOSEPH H. CHOATE,
ARTHUR v. BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

The Evening Post Job Printing House, New York.



Supreme Court of the United States.

1

EMILIE SAXLEHNER,
Petitioner,

vs.

RUDOLPH GIES.

October Term, 1898.

No.

Notice of Motion.

To RUDOLPH GIES, the above named defendant:

2

Please take notice that on Monday, February 20, 1899, at the opening of the court on that day, or as soon thereafter as counsel can be heard, a motion for a writ of *certiorari*, of which motion a copy is annexed, will be submitted to the Supreme Court of the United States, at the City of Washington, D. C., for the decision of the Court thereon.

In support of said motion a petition and a brief will also be presented to the Court. A copy of the petition and of the brief are herewith served upon you.

Respectfully,

JOSEPH H. CHOATE,
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

3

New York, February 6, 1899.

Due service of the foregoing notice of motion in the above cause is hereby admitted this 11th day of February, 1899.

Rudolph Gies
Defendant.

by Charles S. Cox
Edmund Hetmore
its Attorney & Counsel

4 SUPREME COURT OF THE UNITED STATES.

EMILIE SAXLEHNER, Petitioner, vs. RUDOLPH GIES.	October Term, 1898. No.

Motion.

And now comes Emilie Saxlehner, the above
5 named petitioner, by Joseph H. Choate, Arthur v. Briesen and Antonio Knauth, her attorneys and counsel, and moves this Honorable Court for a writ of *certiorari* directed to the Honorable the Judges of the United States Circuit Court of Appeals within and for the Second Judicial Circuit, commanding them forthwith to certify and return to this Court all proceedings by them had in the suit lately before them, wherein this petitioner was appellant and said Rudolph Gies was appellee.

The matter involved herein relates to the question of trade-mark rights of the petitioner in and to the name "Hunyadi" and a red and blue label used in connection therewith upon complainant's bitter
6 water called "Hunyadi Janos." Your petitioner's right to said trade-mark and label has been held forfeited by petitioner's laches by the United States Circuit Court of Appeals for the Second Judicial Circuit, which has ordered the petitioner's bill of complaint in the present case to be dismissed.

EMILIE SAXLEHNER,
Petitioner.
By JOSEPH H. CHOATE,
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Her Attorneys and
Counsel.

Due service of the foregoing motion is hereby admitted this 11 day of February, 1899. 7

Rudolph Gies
Defendant,
by Charles G. Cox
Edmund Wetmore
his attorney & Counsel

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1898.

No.....

EMILIE SAXLEHNER, Petitioner, *In re* Petition for a writ of *certiorari* requiring the Circuit Court of Appeals in and for the Second Circuit to certify to the Supreme Court for review and determination the case of EMILIE SAXLEHNER, Complainant and Appellant, 8

vs.

RUDOLPH GIES, Defendant and Appellee.

TO THE HONORABLE THE SUPREME COURT OF THE UNITED STATES: 9

The petition of Emilie Saxlehner respectfully shows:

FIRST.—That petitioner is a subject of the King of Hungary, and resides at Budapest, in the Kingdom of Hungary, and the defendant, Rudolph Gies, is a resident and a citizen of the State of New York, residing in the City of New York.

SECOND.—That the value of the matter in dispute in the above entitled cause, as appears by the bill of

10 complaint therein, exclusive of interest and costs, exceeds the sum of two thousand dollars, and there is involved in said cause the validity or invalidity of petitioner's trade-mark "Hunyadi" for bitter water, and that of the label used by her, upon which several hundred thousand dollars have been spent for advertising in the course of more than thirty years, and which are of very large value to petitioner in her business.

THIRD.—That this suit was brought to restrain the defendant from infringement upon petitioner's trade-mark rights in the name "Hunyadi," and also from selling bitter waters bearing colorable and
11 fraudulent imitations of the red and blue label used by petitioner in connection with said name "Hunyadi" on her bitter water called "Hunyadi Janos." That the evidence in this case was by stipulation taken in one record with the similar case of your petitioner against Eisner & Mendelson Company (the principal case), in which a similar petition is simultaneously presented to this Court.

FOURTH.—That the undisputed facts relating to the adoption and use of petitioner's trade-mark and label, and also concerning the adoption and use of the blue and red "Hunyady Matyas" label upon a competing Hungarian bitter water, sold by the de-
12 fendant Rudolph Gies, are more particularly set forth in the petition for writ of *certiorari* in your petitioner's case against said Eisner & Mendelson Company.

FIFTH.—That the United States Circuit Court found that the defendant Rudolph Gies had fraudulently sold bitter water bearing the said red and blue "Hunyady Matyas" label as and for your petitioner's "Hunyadi Janos" bitter water, and decreed the issue of an injunction against said defendant enjoining him from a repetition of such acts; but refused your petitioner's prayer for an injunction

against said defendant enjoining him from the use 13
of the name "Hunyadi" either alone or as a prefix to some other name than "Janos," and refused likewise to enjoin said defendant from the use of red and blue labels bearing the name "Hunyady Matyas" provided with the additional "Seal Brand" label of the Eisner & Mendelson Company, and refused an accounting.

SIXTH.—That a decree in accordance therewith was entered in the United States Circuit Court on April 29, 1898, from which decree your petitioner appealed to the United States Circuit Court of Appeals for the Second Circuit, which affirmed the decree of the Circuit Court, holding that your peti- 14
tioner's rights to her trade-mark "Hunyadi" and her red and blue label had been forfeited by laches.

SEVENTH.—That a petition for a rehearing was thereupon filed by petitioner in the Circuit Court of Appeals, and the Court's attention called to the treaty between the United States of America and Austro-Hungary, dated June 1, 1872, but such petition was denied.

EIGHTH.—That copies of the opinions delivered by the Circuit Court and the Circuit Court of Appeals, and also copies of the labels used by petitioner and by defendant respectively are attached to your peti- 15
tioner's petition for writ of *certiorari* in the case against Eisner & Mendelson Company.

NINTH.—That the decree of said Circuit Court of Appeals, affirming the decree of the Circuit Court, was duly entered, and its mandate has been issued.

TENTH.—And your petitioner further represents that said decree of the Circuit Court of Appeals is final between the parties, unless this Honorable Court should of its own motion direct the bringing up for review of said case.

16 ELEVENTH.—That your petitioner has duly registered her trade-mark "Hunyadi" in the United States Patent Office and has also duly registered the same in the Chamber of Commerce and Industry of Budapest, Hungary, and is entitled to the protection guaranteed to her by the said Treaty between the United States of America and Austro Hungary of June 1, 1872, and the statutes of the United States.

TWELFTH.—That if said decision of the Circuit Court of Appeals shall be the law of the land, anybody may with impunity sell any water whatever as your petitioner's well-known "Hunyadi" water
17 and under labels closely and fraudulently simulating your petitioner's label for "Hunyadi Janos" water, whereby the health of consumers and the public will be endangered and your petitioner's business practically destroyed.

THIRTEENTH.—That the grounds upon which your petitioner asks for a writ of *certiorari* in this case are more fully stated in the accompanying petition for a similar writ in the case against the Eisner & Mendelson Company.

Wherefore, petitioner respectfully prays that a writ of *certiorari* may be issued out of and under the seal of this Honorable Court, directed to the
18 United States Circuit Court of Appeals for the Second Circuit, commanding said Court to certify and send to this Honorable Court, on a day certain to be therein designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the said cause therein entitled "Emilie Saxlehner, Complainant-Appellant *vs.* Rudolph Gies, Defendant-Appellee, No. 1026," to the end that the case may be reviewed and determined by this Honorable Court as provided in Section 6 of the Act of Congress entitled "An Act to Establish Circuit Courts of Appeal and to define and regulate in certain cases

the jurisdiction of the Courts of the United States, and for other purposes," approved March 3, 1891; and that your petitioner may have such other or further relief in the premises as to this Court may seem appropriate and in conformity with said Act, and that the said judgment of the said Circuit Court of Appeals for the Second Circuit in the said cause and every part thereof may be reversed by this Honorable Court.

And your petitioner will ever pray, &c.

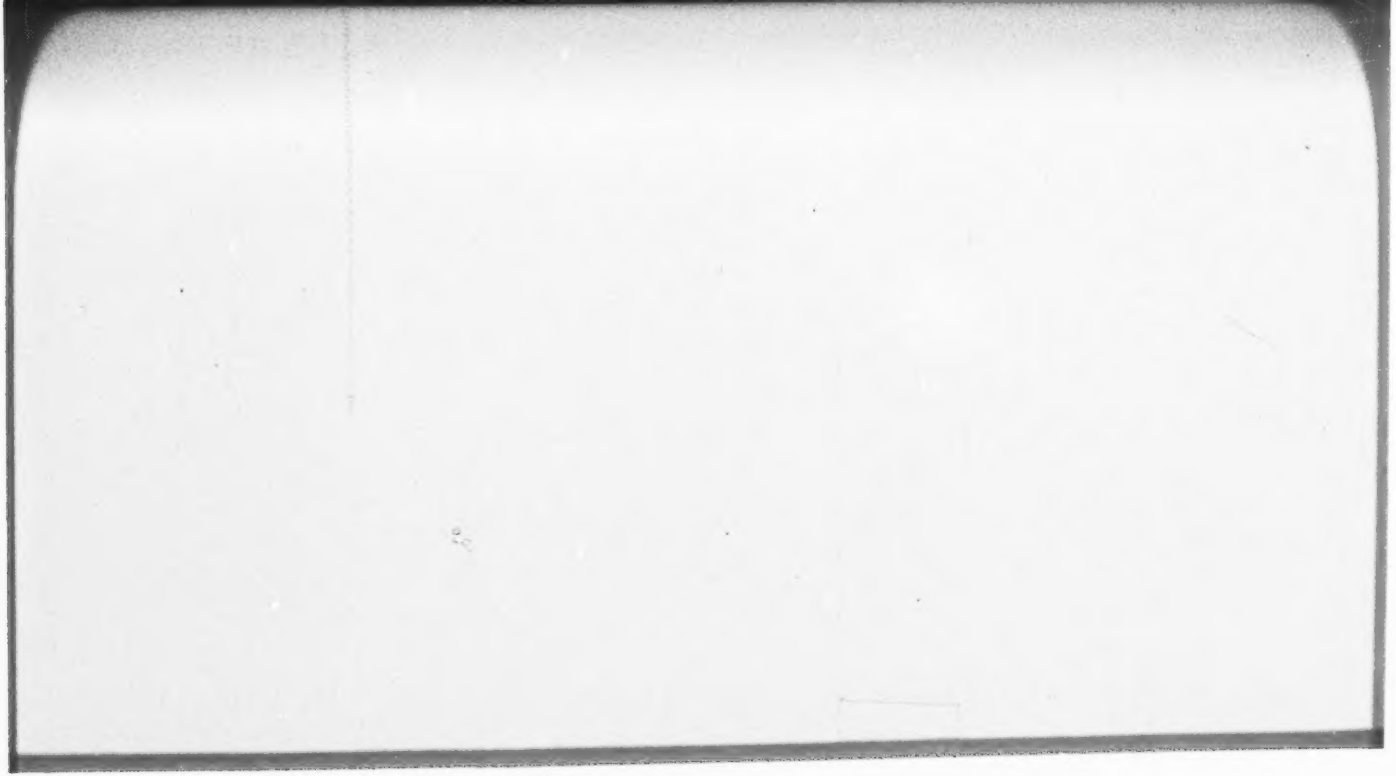
EMILIE SAXLEHNER,
Petitioner.

By JOSEPH H. CHOATE,
ARTHUR VON BRIESEN and
ANTONIO KNAUTH,
her Attorneys and Counsel.

Due service of the foregoing petition is hereby admitted, this 11th day of February, 1899.

Randolph Gies
Defendant.

by Charles D. Lee
Edmund Wetmore
his Attorney & Counsel



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Office Supreme Court U.
FILED
FEB 17 1899
JAMES H. McKENNEY
Cl

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. 715 2744 32

EMILIE SAXLEHNER,
Petitioner,

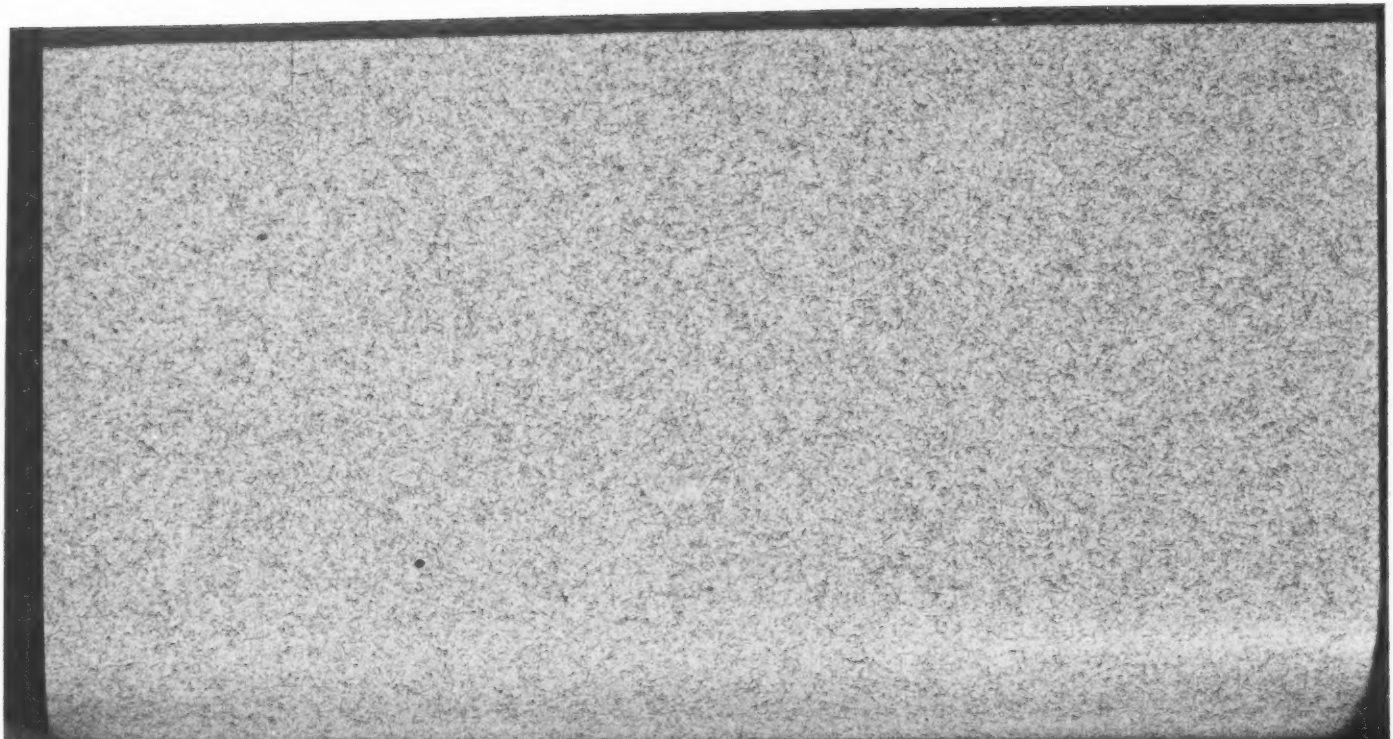
vs.

LOUIS MARQUET.

Notice of Motion, Motion and Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

JOSEPH H. CHOATE,
ARTHUR v. BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

The Evening Post Job Printing House, New York.



Supreme Court of the United States. 1

EMILIE SAXLEHNER, Petitioner,	October Term, 1898.
vs.	No.
LOUIS MARQUET.	

Notice of Motion.

To LOUIS MARQUET, the above named defendant: 2

Please take notice that on Monday, February 20, 1899, at the opening of the court on that day, or as soon thereafter as counsel can be heard, a motion for a writ of *certiorari*, of which motion a copy is annexed, will be submitted to the Supreme Court of the United States, at the City of Washington, D. C., for the decision of the Court thereon.

In support of said motion a petition and a brief will also be presented to the Court. A copy of the petition and of the brief are herewith served upon you.

Respectfully,

JOSEPH H. CHOATE, 3
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
Attorneys and of Counsel for Petitioner.

New York, February 6, 1899.

Due service of the foregoing notice of motion in the above cause is hereby admitted this 11th day of February 1899.

Louis Marquet
Defendant.
by Charles G Bon
Edmund Wetmore
his Attorneys & Counsel

SUPREME COURT OF THE UNITED STATES

EMILIE SAXLEHNER,
Petitioner,

vs.

LOUIS MARQUET.

October Term,
1898.

No.

Motion.

And now comes Emilie Saxlehner, the above named petitioner, by Joseph H. Choate, Arthur v. Briesen and Antonio Knauth, her attorneys and
5 counsel, and moves this Honorable Court for a writ of *certiorari* directed to the Honorable the Judges of the United States Circuit Court of Appeals within and for the Second Judicial Circuit, commanding them forthwith to certify and return to this Court all proceedings by them had in the suit lately before them, wherein this petitioner was appellant and said Louis Marquet was appellee.

The matter involved herein relates to the question of trade-mark rights of the petitioner in and to the name "Hunyadi" and a red and blue label used in connection therewith upon complainant's bitter water, called "Hunyadi Janos." Your petitioner's right to said trade-mark and label has been held for-
6 feited by petitioner's laches by the United States Circuit Court of Appeals for the Second Judicial Circuit, which has ordered the petitioner's bill of complaint in the present case to be dismissed.

EMILIE SAXLEHNER,
Petitioner.

By JOSEPH H. CHOATE,
ARTHUR VON BRIESEN,
ANTONIO KNAUTH,
her Attorneys and Counsel.

Due service of the foregoing motion is hereby admitted this 11th day of February 1899.

Louis Marquet
Defendant.

by Charles G. Co...
Edmund Wet...
his attorneys & C...

SUPREME COURT OF THE UNITED STATES, 7

OCTOBER TERM, 1898.

No.....

EMILIE SAXLEHNER, Petitioner,
In re petition for a writ of *certiorari*, requiring the Circuit Court of Appeals in and for the Second Circuit to certify to the Supreme Court for review and determination the case of EMILIE SAXLEHNER, 8
Complainant and Appellant,

vs.

LOUIS MARQUET,
Defendant and Appellee.

TO THE HONORABLE THE SUPREME COURT OF THE UNITED STATES:

The petition of Emilie Saxlehner respectfully shows:

FIRST.—That petitioner is a subject of the King of Hungary, and resides at Budapest, in the Kingdom 9
of Hungary, and the defendant, Louis Marquet, is a resident and a citizen of the State of New York, residing in the City of New York.

SECOND.—That the value of the matter in dispute in the above entitled cause, as appears by the bill of complaint therein, exclusive of interest and costs, exceeds the sum of two thousand dollars, and there is involved in said cause the validity or invalidity of petitioner's trade-mark "Hunyadi" for bitter water, and that of the label used by her, upon

10 which several hundred thousand dollars have been spent for advertising in the course of more than thirty years, and which are of very large value to petitioner in her business.

THIRD.—That this suit was brought to restrain the defendant from infringement upon petitioner's trade mark rights in the name "Hunyadi" and also from selling bitter waters bearing colorable and fraudulent imitations of the red and blue label used by petitioner in connection with said name "Hunyadi" on her bitter water called "Hunyadi Janos." That the evidence in this case was by stipulation taken in one record with the similar case of your
11 petitioner against Eisner & Mendelson Company (the principal case), in which a similar petition is simultaneously presented to this Court.

FOURTH.—That the undisputed facts relating to the adoption and use of petitioner's trade-mark and label, and also concerning the adoption and use of the blue and red "Hunyady Matyas" label upon a competing Hungarian bitter water sold by the defendant Louis Marquet are more particularly set forth in the petition for writ of *certiorari* in your petitioner's case against said Eisner & Mendelson Company.

12 FIFTH.—That the United States Circuit Court found that the defendant Louis Marquet had fraudulently sold bitter water bearing said red and blue "Hunyady Matyas" label as and for your petitioner's "Hunyadi Janos" bitter water, and decreed the issue of an injunction against said defendant enjoining him from a repetition of such acts, but refused your petitioner's prayer for an injunction against said defendant enjoining him from the use of the name "Hunyadi" either alone or as a prefix to some other name than "Janos," and refused likewise to enjoin said defendant from the use of red and blue labels bearing the name "Hunyady Matyas," pro-

vided with the additional "Seal Brand" label of the 13
Eisner & Mendelson Company, and refused an accounting.

SIXTH.—That a decree in accordance therewith was entered in the United States Circuit Court on April 29, 1898, from which decree your petitioner appealed to the United States Circuit Court of Appeals for the Second Circuit, which affirmed said decree, holding that your petitioner's rights to her trade-mark "Hunyadi" and her red and blue label had been forfeited by laches.

SEVENTH.—That a petition for a rehearing was thereupon filed by petitioner in the Circuit Court of 14
Appeals and the Court's attention called to the Treaty between the United States of America and Austro Hungary, dated June 1, 1872, but such petition was denied.

EIGHTH.—That copies of the opinions delivered by the Circuit Court and the Circuit Court of Appeals, and also copies of the labels used by the petitioner and by defendant respectively, are attached to your petitioner's petition for writ of *certiorari* in the case against Eisner & Mendelson Company.

NINTH.—That the decree of said Circuit Court of Appeals affirming the decree of the Circuit Court 15
was duly entered, and its mandate has been issued.

TENTH.—And your petitioner further represents that said decree of the Circuit Court of Appeals is final between the parties unless this Honorable Court should of its own motion direct the bringing up for review of said case.

ELEVENTH.—That your petitioner has duly registered her trade-mark "Hunyadi" in the United States Patent Office and has also duly registered the

same in the Chamber of Commerce and Industry of Budapest, Hungary, and is entitled to the protection guaranteed to her by the said Treaty between the United States of America and Austro-Hungary, of June 1, 1872, and the statutes of the United States.

TWELFTH.—That if said decision of the Circuit Court of Appeals shall be the law of the land, anybody may with impunity sell any water whatever as your petitioner's well known "Hunyadi" water, and under labels closely and fraudulently simulating your petitioner's label for "Hunyadi Janos" water, whereby the health of consumers and the public will be endangered and your petitioner's business practically destroyed.

THIRTEENTH.—That the grounds upon which your petitioner asks for a writ of *certiorari* in this case are more fully stated in the accompanying petition for a similar writ in the case against the Eisner & Mendelson Company.

Wherefore, petitioner respectfully prays that a writ of *certiorari* may be issued out of and under the seal of this Honorable Court, directed to the United States Circuit Court of Appeals for the Second Circuit, commanding said Court to certify and send to this Honorable Court, on a day certain to be therein designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the said cause therein entitled "Emilie Saxlehner, Complainant-Appellant *vs.* Louis Marquet, Defendant Appellee, No. 1027" to the end that the case may be reviewed and determined by this Honorable Court as provided in Section 6 of the Act of Congress entitled "An Act to Establish Circuit Courts of Appeal and to define and regulate in certain cases the jurisdiction of the Courts of the United States, and for other purposes," approved March 3, 1891; and that your petitioner may have such other or further relief in the premises as to this Court may

seem appropriate and in conformity with said act, and that the said judgment of the said Circuit Court of Appeals for the Second Circuit in the said cause and every part thereof may be reversed by this Honorable Court.

And your petitioner will ever pray, &c.,

EMILIE SAXLEHNER,
Petitioner.

By JOSEPH H. CHOATE, ARTHUR VON BRIESEN and ANTONIO KNAUTH, her Attorneys and Counsel.

Due service of the foregoing petition is hereby admitted this 11th day of February, 1899.

Louis Marquet
Defendant.
by Charles G. Cox
Edmund Wetmore
his attorneys & Counsel